

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4587 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

R M TRIVEDI, THRO' HIS PAH PARESHKUMAR R TRIVEDI

Versus

STATE OF GUJARAT

Appearance:

MR B.N. Patel for Petitioner

Mr. M.A. Bukhari GOVERNMENT PLEADER for Respondent No. 1

MR RJ OZA for Respondent No. 3

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 16/07/1999

ORAL JUDGEMENT

Rule. By way of this application under Art. 226 of the Constitution of India, the petitioner has sought the relief mainly for the pensionary and retirements benefits available to him pursuant to the Government Resolution, Education Department dtd. NGC/1582/2505(84-kh), DTD. 15.10.84 against the respondents.

The petitioner was serving as Lecturer in Physics at V.P & R.P.T.P. Science College, at Vallabhvidhyanagar, since 1958.. with continuous services till the petitioner intended to retire voluntarily and actually retired as such w.e.f. 13.9.87. It is the case of the petitioner that, he had requested the respondent No.2, through the principal of the college, inter alia contending that, he has served the said respondent No.2, by virtue of the aforesaid resolution dtd. 15.10.84. As the services of the colleges and university employees has been made pensionable in case, of retirement or after 1.4.82, the petitioner had exercised the option for pension scheme in lieu of the contributory provident fund scheme as per the aforesaid resolution and therefore, he was eligible entitled to to pension and other retirement benefits on his voluntary retirement on 13.9.87.

It appears that, from the record that the petitioner has sought voluntary retirement after, having completed the 30 years of services and after having opted pensionary scheme as made applicable by the aforesaid resolution dtd. 15.10.84 of the respondent No.1, State. The college with whom the petitioner was working had made similar request to the Director of Pension and Provident Fund, and Director of Education Department, vide letter pursuant to which the petitioner was desirous to first pay 3 months salary in lieu of notice pay in case of voluntary retirement and accordingly the petitioner had paid Rs.9270/- being equivalent to 3 months salary thereafter, also the Respondent Authority, did not respond nor complied the request made by the petitioner several representations came to be made by him in this behalf but all ended in smoke. He had therefore, to rush to the Court of justice for such benefits seeking direction of this Court to direct the respondent Authority to pay the petitioner retirement benefits with interest w.e.f.13.9.87.

It appears that the Respondent Authorities have not choosen it proper to file counter affidavit it is not same to have been filled challenging the reliefs claimed by the petitioner. The Learned Advocate for the petitioner Mr. Patel, vehemently, submitted that the petitioner is entitled to the pension, gratuity and retirement benefits upon his voluntary retirement which took place w.e.f. 13.9.87 pursuant to the government resolution dtd. 15.10.84, provides at annexure "G" . He has also placed reliance upon the decision of this Court in a similar case being SCA No.305/88, in which the

petitioner Dr. V.R. Joshi was paid the pension and gratuity. The said matter was decided by this Court on 13.2.1991, on merits finally. The question whether a person who has voluntarily retired is entitled to the scheme pursuant to the Government Resolution dtd. 15.10.84, and if yes, whether he is entitled to the interest upon the delayed payment of such benefit arising out of such benefits wherein, agitated before this Court and even answered in favour of the employee petitioner. It is also stated by the Ld. Advocate Mr. Patel that no further action is taken by the respondent Authorities and therefore, it has become final. Since both the relevant issues have been decided by this Court earlier, and by aforesaid decision in SCA no.305/88, and it has not been questioned further, it would not be necessary to reiterate all the grounds and relevant rules and provisions. This case is also directly covered by the aforesaid decision. Therefore, the petitioner is entitled to all the retirement benefits available to him pursuant to the Government resolution dtd. 15.10.84 with interest at the rate of 15% on account of delay in making payment of dues payable by the respondent Authorities.

In these circumstances, the respondents are directed to carry out the computation within a period of 8 weeks from the date of receiving the writ from the court and to make the necessary arrangement for payment within a period of 8 weeks thereafter. It is needless to mention that the person who has retired 12 years before, has yet not been paid his legitimate dues arising out of the entitlement pursuant to the government resolution dtd. 15.10.84. Despite the fact that the policy of the Government is to hand over the cheque of first pension on the last day of the service, it is really very painful and unfair that despite 12 years petitioner is denied his legitimate dues. It is therefore, earnestly hoped that the authority concerned looking to the peculiar facts, strictly shall adhere to direction contained hereinabove.

Accordingly this petition stands allowed. Rule made absolute to the extent.

sanjay.
